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Please find below and/or attached an Office communication concerning this application or proceeding.

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/580,583
Filing Date: May 30, 2000
Appellant(s): KOPRA, TONI

P. Ditthavong
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 30, 2009 appealing from the Office action mailed February 2, 2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,006,265	RANGAN	12-1999
6,332,127	BANDERA et al.	12-2001
6,711,379	OWA et al.	3-2004
6,198,935	SAHA et al.	3-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 19, 22-24, 28, 29, 34, 41 and 50-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rangan et al. U.S. Patent No. 6,006,265 in view of Applicant's background further in view of Bandera et al. U.S. 6,332,127 and further in view of Owa et al. (US 6,711,379 B1).

Regarding claims 19, 22, 34, 36 and 52, Rangan teaches displaying a link to a resource wherein the link is related to a product and a position of the link is a video displayed on a terminal and corresponds to an image of the product (see fig. 3a-3d, 4 and 5, col. 14 lines 16-67, col. 17 lines 49-58, col. 18 lines 34-58, col. 21 lines 40-60). Rangan teaches hyperlinks interpreted only when and if exercised by the user, is focused and targeted to the specific terminal exercising the hyperlink, i.e., it makes hyperlinking within streaming digital hypervideo specific to particular place of the user terminal and particular time of the hyperlink exercised and specific to and other factors (see col. 9 lines 32-60). Rangan teaches *a receiver that is configured to receive digital broadcasting over the digital broadcasting network wherein the video is received via the digital broadcasting network* (see col. 6 lines 5-17).

Rangan failed to teach the feature being provided on a mobile terminal. However, applicant in the background of the specification teaches, " Recent improvements in technology have allowed the widespread proliferation of higher speed Internet access, such as 56K modems, Digital Subscriber Line (DSL) and cable TV Internet connections, etc. These high speed Internet connections can support video streaming - the transmission of compressed video signals over the Internet so as to produce picture and sound comparable to that of a standard television receiver. Furthermore, high speed data services to mobile terminals are supported by advanced Third Generation (3G) Universal Mobile Telecommunications System (UMTS) or Global System for Mobile Communication/General Packet Radio Service (GSM/GPRS) mobile networks". The specification further teaches "One aspect of the present invention takes advantage of these advancements by placing products as active hypertext links in images and streaming Internet video so that the viewer can click on the position of the product in the image or video to link to information about the product". It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the service disclosed in Rangan in a wireless devices since the third generation of cellular or wireless technology (3G) with much greater bandwidth are enabled to browse web sties on the Internet, to transmit and receive graphics, to execute streaming audio or video applications, (applicant's background). Applicant discloses that one aspect of the present invention takes advantage of these advancements by placing products as active hypertext links in images and streaming Internet video so that the viewer could click on the position of the product (see page 4), however this feature is taught in Rangan. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the streaming data and the placing of product as active hypertext links in images, as taught in

Rangan, to 3G wireless networks for real time applications, for the intended purpose of providing streaming digital hypervideo including coupons embedded hyperlinks of Rangan to consumer of wireless devices, since the current wireless devices do not inherit the limited bandwidth of the preceding wireless devices. Bandera teaches displaying a link to a resource with a mobile terminal; determining a selection of the link by a user (see col. 7 lines 9-30, col. 4 lines 46-60) to determine content that is related to the linked resource and also to the location of the terminal; *receiving via the mobile communication network the content; (see col. 6 lines 43-67, col. 7 line 1 to col. 8 line 24);* determining the location at periodic interval; searching a database for sellers information (see abstract, col. 2 lines 29-53, col. 5 lines 15-25 and col. 6 line 41 to col. 7 line 52). Bandera teaches providing an advertising object (banner ads of a related content) and the advertising objects including a text files, audio files, video files, image files, hyperlinks and the likes (see col. 2 lines 36-60). Rangan teaches streaming digital hypervideo including hyperlinks distributed upon a digital communications network (see abstract). It would also have been obvious to one of ordinary skill in the art at the time of the invention to automatically determine the location of the terminal as in Bandera for the intended purpose of providing information, such as coupons or advertising based on the location of the terminal, as taught in Bandera. One would be motivated to provide Rangan's coupons or advertisings (see col. 28 lines 9-32) based on location, as taught in Bandera. *Rangan/Bandera does not specifically teach that wherein the mobile communication network is a different network than the digital broadcasting network, it is taught in Owa. Owa teaches the location of the mobile terminal received transmitted from a plurality of GPS satellites (see col. 7 lines 40-52, col. 9 lines 14-22) and broadcast signal from a digital broadcast system (see fig. 23, 24, col. 20 lines 20-67, col. 21 line 56 to col. 22 line 67,*

col. 25 line 3-33). It would have been obvious to one of the ordinary skill in the art at the time of the invention to transmit the digital broadcast through the digital broadcasting network and the location of the device through a mobile communication network different than the digital broadcast network if the Global positioning system is not capable of transmitting the digital signal.

Regarding claim 23, Bandera teaches determining the network address of the mobile terminal and mapping the network address to mobile identifier is inherent feature of Bandera's access to Internet (see col. 4 lines 36-45). The same motivation stated above applies.

Regarding claim 24, Bandera teaches wherein the content received is information on a reseller that is closest to the location of the mobile terminal. *e.g. information related to the nearest store in a national chain stores presented within an advertising object displayed in the web page* (see fig. 2&3 and col. 4 line 35 to col. 5 line 25, col. 7 lines 31-40). It would have been obvious to one of ordinary skill in the art at the time of the invention to search database of reseller in order to select advertising information or coupons about product that is physically near the user's present location, as disclosed in Bandera (see col. 7 lines 32-40).

Regarding claims 28 and 29, Rangan teaches display a link to a resource wherein the link is related to a product and a position of the link is a video displayed on a terminal and corresponds to an image of the product (see fig. 3a-3d, 4 and 5, col. 14 lines 16-67, col. 17 lines 49-58, col. 18 lines 34-58, col. 21 lines 40-60). Rangan teaches hyperlinks interpreted only when and if exercised by the user, is focused and targeted to the specific terminal exercising the hyperlink, i.e., it makes hyperlinking within streaming digital hypervideo specific to particular place of the user terminal and particular time of the hyperlink exercised and specific to and other

factors (see col. 9 lines 32-60). Rangan teaches a receiver that is configured to receive digital broadcasting over the digital broadcasting network wherein the video is received via the digital broadcasting network (see col. 6 lines 5-17).

Rangan failed to teach the feature being provided on a mobile terminal. However, applicant in the background of the specification teaches, " Recent improvements in technology have allowed the widespread proliferation of higher speed Internet access, such as 56K modems, Digital Subscriber Line (DSL) and cable TV Internet connections, etc. These high speed Internet connections can support video streaming - the transmission of compressed video signals over the Internet so as to produce picture and sound comparable to that of a standard television receiver. Furthermore, high speed data services to mobile terminals are supported by advanced Third Generation (3G) Universal Mobile Telecommunications System (UMTS) or Global System for Mobile Communication/General Packet Radio Service (GSM/GPRS) mobile networks". The specification further teaches "One aspect of the present invention takes advantage of these advancements by placing products as active hypertext links in images and streaming Internet video so that the viewer can click on the position of the product in the image or video to link to information about the product". It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the service disclosed in Rangan in a wireless devices since the third generation of cellular or wireless technology (3G) with much greater bandwidth are enabled to browse web sties on the Internet, to transmit and receive graphics, to execute streaming audio or video applications, as taught in applicant's background. Applicant discloses that one aspect of the present invention takes advantage of these advancements by placing products as active hypertext links in images and streaming Internet video so that the viewer

could click on the position of the product (see page 4), however this feature is taught in Rangan. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the streaming data and the placing of product as active hypertext links in images, as taught in Rangan, to 3G wireless networks for real time applications, for the intended purpose of providing streaming digital hypervideo including coupons embedded hyperlinks of Rangan to consumer of wireless devices, since the current wireless devices do not inherit the limited bandwidth of the preceding wireless devices. Bandera teaches transceiver configured to communicate over a network; a memory including logical instructions stored therein and a processor configured to enable action based on executing the logical instruction for displaying a link to a resource; storing the location of the mobile terminal *wherein the location of the mobile terminal is received via the mobile communication network (see col. 6 lines 43-67, col. 7 line 1 to col. 8 line 24);*; determined using the mobile communication network in response to the selection of the link (see col. 7 lines 9-30, col. 4 lines 46-60 and communication the selected link and the location of the mobile terminal to an application server using the mobile communication network; receiving content related to the linked resource and the location and displaying the content (see fig. 2, abstract, col. 2 lines 29-53, col. 5 lines 15-25 and col. 6 line 41 to col. 7 line 52). Bandera teaches providing an advertising object (banner ads of a related content) and the advertising objects including a text files, audio files, video files, image files, hyperlinks and the likes (see col. 2 lines 36-60). Bandera teaches providing an advertising object (banner ads of a related content) and the advertising objects including a text files, audio files, video files, image files, hyperlinks and the likes (see col. 2 lines 36-60). Rangan teaches streaming digital hypervideo including hyperlinks distributed upon a digital communications network (see

abstract. It would also have been obvious to one of ordinary skill in the art at the time of the invention to automatically determine the location of the terminal as in Bandera for the intended purpose of providing information, such as coupons or advertising based on the location of the terminal, as taught in Bandera. One would be motivated to provide Rangan's coupons or advertisings (see col. 28 lines 9-32) based on location, as taught in Bandera. *Rangan/Bandera does not specifically teach that wherein the mobile communication network is a different network than the digital broadcasting network, it is taught in Owa. Owa teaches the location of the mobile terminal received transmitted from a plurality of GPS satellites (see col. 7 lines 40-52, col. 9 lines 14-22) and broadcast signal from a digital broadcast system (see fig. 23, 24, col. 20 lines 20-67, col. 21 line 56 to col. 22 line 67, col. 25 line 3-33). It would have been obvious to one of the ordinary skill in the art at the time of the invention to transmit the digital broadcast through the digital broadcasting network and the location of the device through a mobile communication network different than the digital broadcast network if the Global positioning system is not capable of transmitting the digital signal.*

Regarding claims 37-39, Bandera teaches searching database for reseller information that is a match to the location of the terminal and advertisement and providing the information to the mobile terminal (see fig. 2&3 and col. 4 line 35 to col. 5 line 25). Base station subsystem and mobile terminal connected via GSM network is inherent feature. It would have been obvious to one of ordinary skill in the art at the time of the invention to search database of reseller in order to select advertising information or coupons about product that is physically near the user's present location, as disclosed in Bandera (see col. 7 lines 32-40).

Claims 41 and 50 are rejected as stated above in claim 19.

Regarding claims 45-47, 49 and 51, Rangan teaches selection of the link stops the delivery of the video while the related content is displayed (see fig. 4, 6-8).

Claims 25-27 and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rangan et al. U.S. Patent No. 6,006,265 in view of Applicant's background further in view of Bandera et al. U.S. Patent No. 6,332,127 in view of Owa et al. (US 6,711,379 B1) and further in view of Saha et al. U.S. Patent No. 6,198,935.

Regarding claims 25-27, 30-33 and 40 Bandera teaches the location of the mobile terminal being determining using different method, such GPS, or based on identification of the cellular base station or satellite beam (see col. 4 lines 46-60 and col. 6 line 42 to col. 7 line 30). Bandera does not explicitly teach measuring radio signals and determining the arrival time of a first detectable path and determining idle periods, it is taught by Saha (see abstract and col. 5 line 15 to col. 6 line 67 and col. 7 lines 5-23). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Bandera's mobile terminal with Saha's determining of position based upon network characteristics. One would be motivated to include signal measurement for the purpose of computing an accurate position of a mobile station, as taught by Saha (see col. 7 lines 5-10). Bandera's Web access from the mobile terminal enables a bet from the mobile terminal.

(10) Response to Argument

Appellant argues that while *Rangan* may disclose hyperlinking (within streaming digital hypervideo) specific to a particular place, time, and other factors, as acknowledged by the Examiner, *Rangan et al.* discloses only a receiver that is configured to receive digital broadcasting over a digital broadcasting network wherein the video is received via the digital

broadcasting network. Examiner aggress with Appellant that in Rangan there is no disclosure or suggestion, within *Rangan et al.,* of the use of any mobile communications network. Examiner also agrees that there is no disclosure of "wherein the mobile communication network is a different network than the digital broadcasting network". Examiner is aware that Appellant claimed invention is for wireless device. However Examiner would like to point out that the only difference between Rangan's invention and Appellant's claimed invention is the steps that are performed in Rangan are performed on a wireless device with mobile communication network.

At the time of applicant's invention the wireless devices not only included a mobile communication network but were also capable of receiving broadcast signals.

As indicated by Appellant recent improvements in technology have allowed the widespread proliferation of higher speed Internet access, such as 56K modems, Digital Subscriber Line (DSL) and cable TV Internet connections, etc., and these high speed Internet connections can support video streaming - the transmission of compressed video signals over the Internet so as to produce picture and sound comparable to that of a standard television receiver. Appellant also states that high speed data services to mobile terminals are supported by advanced Third Generation (3G) Universal Mobile Telecommunications System (UMTS) or Global System for Mobile Communication/General Packet Radio Service (GSM/GPRS) mobile networks (as indicated in Appellant's background). Examiner, in addition to Appellant's admitted art, also provided Bandera and Owa to show that wireless devices receive digital broadcasting including multimedia data containing picture, sound, text and the like. As indicated above, Bandera teaches when a user makes a web page request via a mobile Web client in

communication with a Web server the mobile Web client, *in response to the user request obtains user location information, from Global Positioning System and transmits the user request for the Web page to the Web server with the obtained user location; the Web server then selects an advertising object based upon the user's location ... the Web server generates the requested Web page with the selected advertisement object included therein and serves the generated 'Web page to the mobile Web client* (see col. 2 lines 36-60). Bandera also teaches that the mobile Web Client is configured to obtain location information from a Global positioning system; and the location information of the mobile Web client can be included with a Web page request such that adverting objects can be selected for inclusion with the Web page … Bandera also teaches that each element of a Web page ... may be represented by a content object, and the content object may include audio and video files (see col. 4 line 62 to col. 5 line 25). Further Bandera teaches two communication systems, i.e., the Global Positioning system to obtain location information and the Internet for providing the Web pages and the advertisements. Bandera failed to teach that the second communication system is a digital broadcasting system.

Owe teaches as follows: (see col. 1 lines 5-45)

"Conventionally, in the field of television broadcasting, the digitalization of ground-based broadcasting and satellite broadcasting has been developed, and some of them are presently brought into practice. However, these techniques are basically for the broadcasting to fixed terminal devices, and in the case where a terminal device is built in a mobile station, it is considered to be difficult technically to provide an appropriate service which is in accordance with the state of the use thereof. In particular, the contents of programs in the broadcasting are all reproduced similarly by all terminal devices, and thus it is not possible to play selectively a

part of the contents of a program upon the designation of a user, a broadcast station or a use condition."

"In the meantime, there is an increasing demand of a digital broadcasting system which broadcasts multimedia data containing picture, sound, texts and the like, to terminal devices built in, mainly, mobile stations. However, in order to satisfy such a demand, it is essential to solve the above-described drawbacks that is technically difficult with a conventional television broadcasting system".

"The present invention has been proposed by focusing on the above-described circumstances, and the main object thereof is to provide a digital broadcasting system which not only merely provides a program as a broadcast service when broadcast multimedia data containing picture, sound, texts and the like, to a terminal device built in, mainly, a mobile station, but also is capable of presenting data which can flexibly follow up the needs and the use state of the user with the program contents themselves, as well as a terminal device therefor".

Appellant asserts that one of the quoted portions explicitly states that "[o]ne aspect of the present invention takes advantage of these advancements by placing products as active hypertext links in images and streaming Internet video so that the viewer could click on the position of the product..." Such advantages recognized by Appellant and achieved by Appellant's invention should not, and cannot, be used against Appellant in the present rejection. Examiner would like to point out that the placing products as active hypertext links in images and streaming Internet video is taught in Rangan.

As indicated above, from the teaching of Bandera, Owa and also applicant's background the wireless devices are capable of receiving and displaying videos received via digital

broadcasting network. Since Rangan teaches providing receiving and displaying video, included a product image link, received via digital broadcasting network it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the hyperlink of Rangan in a wireless devices since the wireless devices are as capable as the wired devices of Rangan to receive and display the information.

Regarding Appellant's argument that the there is no teaching in *Owa et al.* of employing a **mobile communications network** for determining a location of the mobile terminal in response to a receiving input selecting a link, Examiner points out that determining the location of mobile terminal in response to receiving input selecting a link is taught in Bandera. Owa is relayed upon for the teaching of receiving video by a mobile terminal via digital broadcasting network.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Appellant also argues that "(w)hile the Examiner gives specific reasons for combining the references, e.g., it would have been obvious to transmit the location of the device through a mobile communication network different than the digital broadcasting network *"if the Global positioning system is not capable of transmitting the digital signal,"* the Examiner's rationale is not reasonable since it relies on impermissible hindsight gleaned from Appellant's own disclosure and is not based on any evidence provided by the applied references. Therefore, there would have been no motivation to combine the references in the manner suggested by the

Examiner". In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Yehdega Retta/
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Eric Stamber/E. W. S./
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